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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,469	04/26/2000	Shinichi Kudo	Q59040	1492

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Sughrue Mion Zinn MacPeak & Seas PLLC
2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

EXAMINER

NGUYEN, BINH AN DUC

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 02/11/2004

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/559,469

Applicant(s)

KUDO, SHINICHI

Examiner

Binh-An D. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The Request for Reconsideration filed in Paper No. 21, November 26, 2003 has been received. Currently, claims 1-11 are pending in this application. Acknowledgment has been made.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1, 4, and 7-9, the limitation of "displaying an image of the player character corresponding to anyone of said plurality of operational modes together with images of said non-player characters with both the images of the player and the non-player characters **kept unchanged**, simultaneously with any one of said background images" has not been originally disclosed in the specification.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3713

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rieder (5,769,718) in view of Stephens et al. (6,155,923).

Rieder teaches a video game device and method comprising an image of a player character, images of non-player characters (antagonist characters), and background images; predetermining a plurality of operational modes which are assigned to player character (fighting mode, moving mode, etc.), and preparing an image corresponding to each operational mode; displaying an image of the player character corresponding to any one of plurality of operational modes and images of non-player characters, simultaneously with any one of the background images (Fig. 6); the image of the player character is an image displaying the player character in a state where it is carrying a weapon; a fighting mode representing a state wherein the player character is able to fight using the weapon; and a moving mode representing a state wherein the character moves while carrying the weapon (Fig. 5). See Figures 4-8 and columns 2:11-5 and 5-8.

Rieder does not explicitly teach the limitations of displaying an image of the player character corresponding to any one of said plurality of operational modes together with images of non-player characters with both the images of the player and the non-player characters kept unchanged; and background images that display scenes adjacent to each other in location (claims 1, 4, and 7-9); restricting the switching of the background images from the start until completion of an operational mode (claims 1, 4, 7, 8, and 9); information relating to background images is determined on the basis of the

Art Unit: 3713

video RAM capacity of the video device (claims 2 and 5). Stephens et al., however, teaches a video game system and methods for enhanced processing and display of graphical character elements comprising displaying an image of the player character corresponding to any one of said plurality of operational modes together with images of non-player characters with both the images of the player and the non-player characters kept unchanged (no changing or replacing types of player characters and non-player characters); background images that display scenes adjacent to each other in location (Figure 1); restricting the switching of the background images from the start until completion of an operational mode (5:36-48); information relating to background images is determined on the basis of the video RAM capacity of the video device (5:2-10:43). See also, Figures 1-6 and columns 1-4.

Furthermore, regarding the limitation of "said character is unable to fight using said weapon in the moving mode" (claims 10 and 11), this limitation is notoriously well known by the video game in the events such as no fighting command being issued from the controller by the game player or the game character ran out of munitions, etc.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Rieder's with a video game system and methods for enhanced processing and display of graphical character elements, as taught by Stephens et al., to come up with a more affordable and faster video game processing device thus attract more game players and increase profit in sales.

Art Unit: 3713

6. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments filed November 26, 2003 have been fully considered but they are not persuasive. Applicant's remarks regarding the rejection of claims 1-11 under 35 U.S.C. 112, first paragraph (applicant's response, page 2) is not convincing. The limitation of "displaying an image of the player character corresponding to anyone of said plurality of operational modes together with images of said non-player characters with both the images of the player and the non-player characters **kept unchanged**, simultaneously with any one of said background images" has not been originally disclosed in the specification. The claimed limitation seems to freeze the displaying image while pages 9 and 10 of the specification and Figures 3, 6, and 7 appear to have the player and the non-player characters in action.

Further, applicant's argument regarding Rieder not teaching the limitation of "restricting the switching of the background images from the start until the completion of an operational mode." (applicant's response, page 3, second paragraph), this limitation has been taught by Stephens et al. as being addressed above. Note that, applicant's argument regarding Stephens et al.'s game system required no mechanical operation to access the ROM cartridge (applicant's response, page 3, third paragraph). This limitation, however, has not been claimed by the applicant.

Art Unit: 3713

8. Applicant's arguments, see applicant's response page 4, 3rd and 4th paragraph, filed November 26, 2003, with respect to claims 10 and 11 have been fully considered and are persuasive. The rejection of claims 10 and 11 under 35 U.S.C. 103(a) has been withdrawn.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 703-305-5713. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

Art Unit: 3713

872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

BN


Teresa Walberg
Supervisory Patent Examiner
Group 3700